

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY RABAT

UNCLAS STATE 020194

E.O. 11652:N/A

TAGS: EFIN, MO, US

SUBJECT:US-MOROCCO DOUBLE TAXATION TREATY

REF: RABAT 6625

1. APPRECIATE EMBASSY'S EFFORTS AND REGRET CONFUSION OVER FRENCH INITIALLED TEXT, WHICH IN NUMBER OF CASES IS CLOSER TO ENGLISH VERSION THAN NEWER FRENCH TEXT. LANGUAGE SERVICES HAS MADE A NEW REVIEW COMPARING ENGLISH AND FRENCH TEXTS AS INITIALLED. NECESSARY CHANGES TO CONFORM THE TWO TEXTS ARE AS FOLLOWS:

2. CHANGES IN ENGLISH TEXT AS INITIALLED ON NOVEMBER 4, 1972.

ARTICLE 3, PARAGRAPH 1(B) (II) LINE 3: REVISE TO BEGIN--
;ANY PERSON (EXCEPT A CORPORATION OR ANY ENTITY TREATED
UNDER UNITED STATES LAW AS A CORPORATION)---." THIS
CHANGE WAS PROPOSED BY MOROCCO AND REQUIRES NO CHANGE IN
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FRENCH TEXT.

3. ARTICLE 14, PARAGRAPH 3: REVISE TO BEGIN--THE TERM
"PERSONAL SERVICES IN AN INDEPENDENT CAPACITY MEANS..."
THIS IS MORE ACCURATE SINCE THE TERM "INDEPENDENT

ACTIVITIES" IS NOT USED IN THE TEXT. THIS PARAGRAPH IS

MISSING IN FRENCH TEXT.

4. ARTICLE 16, PARAGRAPH 2: CHANGE REFERENCE IN MID-

PARAGRAPH FROM "ARTICLES 7 (INDUSTRIAL AND COMMERCIAL PROFITS) ..." TO ARTICLES 7 (BUSINESS PROFITS) ..." FOR ACCURACY.

PAGES 42 AND 44: THE ARTICLE NUMBER AT TOP OF PAGE IS WRONG. PAGE 42 IS A CONTINUATION OF ARTICLE 18 NOT 17 AND PAGE 44 IS A CONTINUATION OF ARTICLE 19 NOT 18.

5. ARTICLE 28, PARAGRAPH 2 (B): IT WAS PREVIOUSLY AGREED THAT DATE SHOULD BE CHANGED FROM JANUARY, 1973 TO JANUARY, 1977.

6. ARTICLE 29: FOR CLARITY CHANGE INTRODUCTORY PARAGRAPH TO READ: "PRIOR TO THE 30TH OF JUNE IN ANY CALENDAR YEAR AT ANY TIME AFTER 5 YEARS FROM THE DATE ON WHICH THIS CONVENTION ENTERS INTO FORCE,"

7. SIGNATURE PAGE, PAGE 63: IF ARABIC TEXT IS NOT TO BE OFFICIAL, CLOSING PARAGRAPH WILL HAVE TO BE MODIFIED TO READ "DONE IN DUPLICATE IN THE ENGLISH AND FRENCH LANGUAGES, THE TWO TEXTS HAVING EQUAL AUTHENTICITY,

THIS (BLANK) DAY OF (BLANK), 19(BLANK)".

8. CHANGES IN FRENCH TEXT AS INITIALLED ON NOVEMBER 4, UNCLASSIFIED

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1972.

(LINE REFERENCES ARE THOSE INDICATED IN REFTEL).

ARTICLE 1, PARAGRAPH 1 (B), LINE 3: REFERENCE TO ARTICLE 21 WITH RESPECT TO THE COMPULSORY LOAN IS NOT SUPERFLUOUS BECAUSE ARTICLE 21 EXPLAINS CONDITIONS UNDER WHICH FOREIGN TAX CREDIT WILL BE ALLOWED FOR SUCH PAYMENTS AND WITHOUT SUCH CROSS-REFERENCE TO ARTICLE 21, ARTICLE 1 WOULD BE MISLEADING.

9. ARTICLE 5, PARAGRAPH 3, LINES 2 AND 3: WE DID NOT REQUEST ELIMINATION OF THE PHRASE "FOR THE USE OF, OR THE RIGHT TO USE, PROPERTY OR RIGHTS DESCRIBED IN SUCH PARAGRAPH", BUT ENGLISH TEXT CONTAINS THIS PHRASE ONCE (LINES 4 AND 5 OF ENGLISH, AFTER A.) FRENCH VERSION CONTAINS THIS PHRASE TWICE: ON LINES 1 AND 2 AND AGAIN ON LINE 5, AFTER A).

REPETITION IN FRENCH VERSION IS REDUNDANT AND MUST BE DELETED, AND FRENCH TEXT SHOULD STAND AS CORRECTED BY LS/T, IN ORDER TO MATCH EXACTLY THE ENGLISH.

10. ARTICLE 13, PARAGRAPH 1, LINE 3: OFFICIAL TRANSLATION FOR CAPITAL ASSETS GIVEN IN G.A.T.T. AND WORLD BANK GLOSSARIES AND IN UN TERMINOLOGY BULLETIN NUMBER 186, IS "BIENS DE CAPITAL". FRANCOPHONE ECONOMISTS CONSULTED AGREE THAT DE IS THE PROPER TERM OF THE ART.

11. ARTICLE 13, PARAGRAPH 2 (C), LINE 1: US TREASURY WISHES TO KEEP "INDIVIDUAL" AND "PERSONNE PHYSIQUE". THIS PARAGRAPH DEALS WITH CASE OF INDIVIDUALS. CONCEPT OF FIXED BASE REFERRED TO IN SUBPARAGRAPH (1) IS USED IN TREATY ONLY WITH RESPECT TO INDIVIDUALS (ARTICLE 14) AND 183 DAY PHYSICAL PRESENCE RULE IS RELEVANT ONLY TO INDIVIDUALS. RESIDENTS IN GENERAL ARE COVERED BY THE UNCLASSIFIED

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ARTICLE HOWEVER, AND PARAGRAPH 2 (B) CONTAINS AN ANALOGOUS RULE TO PARAGRAPH 2 (C) (1).

12. ARTICLE 14 AND ARTICLE 15 (TITLE AND TEXT OF ARTICLES): IN PHRASE "INDEPENDENT PERSONAL SERVICES" TERM "INDEPENDENT", AS INDICATED BY WHOLE CONTEXT OF ARTICLE, DOES NOT REFER TO ANY PARTICULAR TYPE OF OCCUPATIONS, BUT TO "SELF-EMPLOYMENT" ASPECT. IT COVERS ALL KINDS OF PROFESSIONS, PERFORMED IN AN "INDEPENDENT", OR NON SALARIED, CAPACITY, INCLUDING BUT NOT LIMITED TO "LIBERAL PROFESSIONS". IF PHRASE IS TRANSLATED INTO FRENCH BY "PROFESSIONS INDEPENDANTES", THAT IS SYNONYMOUS WITH "PROFESSIONS LIBERALES" (DOCTORS, LAWYERS, PROFESSORS, ETC.) AND MUCH MORE RESTRICTIVE, ELIMINATING ALL OTHER PROFESSIONS EVEN WHEN EXERCISED BY AN INDIVIDUAL "ON HIS OWN ACCOUNT". THIS IS CONTRARY TO SUBSTANCE AND TO LETTER OF ARTICLE 14, PARAGRAPH 3, DEFINING TERM "INDEPENDENT" (PARAGRAPH WHICH HAD BEEN OMITTED IN THE FRENCH TEXT, AND WHICH HAS BEEN REVISED BY TREASURY FOR CLARITY IN ENGLISH TEXT).

UNDER ARTICLE 15, SAME REASONING APPLIES. LEGAL EXPERTS CONSULTED INDICATED THAT "DEPENDENT PERSONAL SERVICES" SHOULD BE TRANSLATED BY "SERVICES PERSONNELS SALARIES" WHICH IS PROPER TERM OF THE ART. THE INITIALLED FRENCH TEXT SPECIFIES: "DES SERVICES PERSONNELS QU'ELLE ACCOMPLIT DANS LE CADRE D'UN EMPLOI SALARIE". THIS TEXT AGREES ENTIRELY WITH OUR REASONING AND ARTICLE 14 (3). IF IT IS ACCEPTED IN ARTICLE 15 (1) LINE 3, WHY NOT ACCEPT IT ALSO THROUGHOUT ARTICLES 14 AND 15?

13. ARTICLE 16, PARAGRAPH 1, LINES 8, 9, 10: TREASURY DELETED THAT PARAGRAPH AS IT IS COVERED IN SUBSTANCE BY PARAGRAPH 2. IT IS NECESSARY TO REPLACE "IL" BY "CE REVENU" IN PARAGRAPH 2, LINE 3, TO MAKE CLEAR THAT "SUCH INCOME", AND NOT "THE ARTIST", MAY BE TAXED.
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14. ARTICLE 20, PARAGRAPH 5 (A) AND (B) (NEW NUMBERING): WE DID NOT INTEND HERE TO MAKE A CHANGE IN THE TRANSLATION, BUT RATHER TO ADD A PHRASE THAT WAS OMITTED IN FRENCH TEXT UNDER (A).

WE DID NOT DELETE OR MODIFY "PENDANT LA TOTALITE DE L'ANNEE D'IMPOSITION" IN LINE 3 (TO TRANSLATE "FOR THAT ENTIRE YEAR"), BUT INSERTED "POUR TOUTE ANNEE D'IMPOSITION" IN LINE 2 (TO TRANSLATE "IN ANY TAXABLE YEAR").

SAME COMMENT APPLIES UNDER (B).

15. ARTICLE 29, FIRST PARAGRAPH: TO CLARIFY TEXT, TREASURY IS CHANGING ENGLISH TO READ: "PRIOR TO THE 30TH OF JUNE, IN ANY CALENDAR YEAR AT ANY TIME AFTER FIVE YEARS FROM THE DATE ON WHICH THIS CONVENTION ENTERS INTO FORCE," AND FRENCH TEXT IS MODIFIED ACCORDINGLY TO READ: "AVANT LE 30 JUIN DE TOUTE ANNEE CIVILE, A TOUT MOMENT APRES CINQ ANS A COMPTER DE LA DATE D'ENTREE EN VIGUEUR DE LA PRESENTE CONVENTION, LA DENONCER, EN NOTIFIANT CETTE DENONCIATION PAR ECRIT ET ...

16. SIGNATURE PAGE: AS IN ENGLISH, THIS WILL HAVE TO BE MODIFIED IF ARABIC TEXT IS NOT TO BE AN OFFICIAL TEXT.

17. COMMENT: IF THESE CHANGES ACCEPTABLE TO GOM WE WILL CONSIDER ENGLISH AND FRENCH TEXTS AGREED UPON AND, IF MOROCCANS STRONGLY FAVOR SIGNATURE OF FRENCH AND ENGLISH VERSIONS WITH ONLY THOSE TWO LANGUAGES BEING OFFICIAL, US WOULD HAVE NO OBJECTION AS WE DESIRE EARLY RESOLUTION OF THIS MATTER.

LANGUAGE SERVICES WAS UNWILLING HIRE OUTSIDE ARABIC TRANSLATOR TO INTERLINEATE ALL THREE TEXTS AS THERE REMAINS POSSIBILITY THAT SOME PORTIONS OF REVISED FRENCH/
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ENGLISH TEXTS MAY BE UNACCEPTABLE TO GOM. IN VIEW

EMBASSY'S BELIEF THAT PUBLISHED ARABIC TEXT WILL BE MOST
WIDELY USED VERSION OF TREATY, SUGGEST THAT ARABIC BE
CONFORMED TO ENGLISH TEXT, ONCE MOROCCANS HAVE ACCEPTED

LATTER, AND CONFORMATION AGREED UPON PRIOR TO GOM PUBLI-
CATION OF ARABIC VERSION WITHOUT RESPECT TO WHETHER
OR NOT ARABIC IS TO BE ONE OF OFFICIAL LANGUAGES OF
TREATY.

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Message Attributes

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Control Number: n/a
Copy: SINGLE
Sent Date: 28-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
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Executive Order: N/A
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